

AMENDING THE ACT OF FEBRUARY 12, 1929 (25 U.S.C. 161a) BY AUTHORIZING AND DIRECTING THE SECRETARY OF THE INTERIOR TO INVEST FUNDS HELD IN TRUST BY THE UNITED STATES AT THE AVERAGE OF THE HIGHEST RATES PAYABLE ON SHORT TERM MARKETABLE OBLIGATIONS OF THE UNITED STATES FOR SO LONG AS THE FUNDS ARE HELD IN TRUST BY THE UNITED STATES AND ARE CARRIED ON THE BOOKS OF THE UNITED STATES TREASURY TO THE CREDIT OF INDIAN TRIBES UNDER THE PROVISIONS OF THE ACT

APRIL 24, 1984.—Ordered to be printed

Mr. ANDREWS, from the Select Committee on Indian Affairs,
submitted the following

REPORT

[To accompany S. 2000]

The Select Committee on Indian Affairs to which was referred the bill (S. 2000) to allow variable interest rates for Indian funds held in trust by the United States, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

On page 2, line 4, following the word "maturities" delete "." and add the following: ", *Provided*, That such interest shall be paid at the average of the highest rates payable on short term marketable obligations of the United States during the term that any funds, both principal and interest, upon which interest is not otherwise authorized by law, are held in trust by the United States and are carried on the books of the United States Treasury to the credit of Indian tribes under the provisions of this Act."

PURPOSE

This bill will provide a variable rate of interest for certain Indian Tribal Trust funds which now draw interest at 4 percent as provided by the 1929 Act (25 U.S.C. 161a). This bill will enable the Federal Government better to fulfill its trust responsibility to the Indians and provide a more equitable return on the funds.

BACKGROUND

The Act of February 12, 1929 (25 U.S.C. 161a) provided that Indian tribal funds held in trust by the United States shall bear interest at the rate of 4 percent per annum. S. 2000 amends 25 U.S.C. 161(a) which established, in 1929, a 4 percent interest rate on tribal trust funds on deposit, in the U.S. Treasury "upon which interest is not otherwise authorized by law." Section 161(a) is a stopgap measure which only applies to a relatively small category of funds. The average amount of the fund at any given time is \$8,000,000. At 4 percent it earn \$320,000; at the current 9½ percent it would earn \$760,000. The majority of Indian trust money are invested under Section 162(a) at market rates in federally insured banks and through the direct purchase of U.S. securities.

LEGISLATIVE HISTORY

S. 2000 was introduced by Senator Andrews on October 25 (Legislative Day, October 24), 1983, at the request of the Administration. It would amend the Act of February 12, 1929 (25 U.S.C. 161a). The bill was referred to the Select Committee on Indian Affairs. A hearing on the bill was held on February 3, 1984. The committee met on April 9, 1984, and by a unanimous vote of a quorum present ordered the bill reported with the amendment. There is no companion legislation in either the House of Representatives or the Senate.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTE

The Select Committee on Indian Affairs by unanimous vote of a quorum present, in an open business meeting on April 9, 1984, recommends that the Senate pass S. 2000, as amended.

COMMITTEE AMENDMENTS

There is one amendment to this bill. It provides interest on certain Indian tribal funds held in trust by the United States shall be invested by the Secretary of the Interior at the highest rate available rather than at a fixed rate of 4 percent as at present.

The amendment is as follows:

On page 2, line 4, following the word "maturities" delete "." and add the following: "*Provided*, That such interest shall be paid at the average of the highest rates payable on short term marketable obligations of the United States during the term that any funds, both principal and interest, upon which interest is not otherwise authorized by law, are held in trust by the United States and are carried on the books of the United States Treasury to the credit of Indian tribes under the provisions of this Act."

COST AND BUDGETARY CONSIDERATIONS

The cost estimate for S. 2000, as amended, as provided by the Congressional Budget Office, is outlined below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 12, 1984.

HON. MARK ANDREWS,
*Chairman, Selected Committee on Indian Affairs, U.S. Senate,
Hart Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2000, a bill to allow variable interest rates for Indian funds held in trust by the United States, as amended and ordered reported by the Senate Select Committee on Indian Affairs, April 9, 1984.

The Congressional Budget Office has determined that enactment of this bill would require the Secretary of the Treasury to pay a higher rate of interest than the 4 percent now required for certain funds the Treasury holds in trust for some Indian tribes. The balances in these funds average approximately \$8 million. Enactment of this bill would raise annual payable interest on these funds from approximately \$320,000 to about \$700,000 resulting in a yield equal to current Treasury rates for short-term securities.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The committee believes that S. 1196 will have no regulatory or paperwork impact.

EXECUTIVE COMMUNICATION

The proposed bill was introduced at the request of the Secretary of the Interior. The administration supports the legislation.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 30, 1983.

HON. GEORGE BUSH,
*President of the Senate,
Washington, D.C.*

DEAR MR. PRESIDENT: There is enclosed a draft bill, "To allow variable interest rates for Indian funds held in trust by the United States."

We recommend that the draft bill be introduced, referred to the appropriate committee for consideration, and enacted.

The draft bill would amend the Act of February 12, 1929 (25 U.S.C. 161a) to provide that Indian tribal funds held in trust by the United States shall be invested by the Secretary of the Treasury in public debt securities and bearing interest at rates determined by the Secretary taking into consideration current market yields.

Currently, all Indian trust funds over \$500 that are held by the United States, however, are adjusted semiannually to reflect changing

Interest rates for many other trust and escrow accounts held by the United States, however, are adjusted semiannually to reflect changing interest rates. To illustrate, the average return on the Alaska Native Escrow Fund (34 U.S.C. 1613(e)) in the United States Treasury for the year ending June 30, 1980, was 10.38 percent. With an average daily balance of approximately \$5 million for that year, Indian trust funds would have earned \$519,000 at this rate. Instead, at the 4 percent rate, those same funds earned only \$200,000.

The 4 percent interest rate for Indian trust funds was mandated in 1929, reflecting credit conditions of that era. In order for the Federal Government to better fulfill its trust responsibility to the Indian people and to make the return on all trust funds more equitable in today's economic climate, Indian trust funds should be provided a more flexible rate of interest. The draft bill would accomplish this by providing for a variable rate of interest on Indian tribal funds held in trust by the United States.

The Office of Management and Budget has advised that there is no objection to the submission of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

KENNETH L. SMITH,
Assistant Secretary, Indian Affairs.

Enclosure.

STATEMENT OF KENNETH L. SMITH, ASSISTANT SECRETARY, INDIAN
AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the committee: Thank you for the opportunity to present the views of the Department of the Interior on S. 2000, a bill introduced at the request of the administration. This legislation would allow variable interest rates for Indian funds held in trust by the United States. We recommend that S. 2000 be enacted.

S. 2000 would amend the act of February 12, 1929 to provide that Indian tribal funds held in trust by the United States shall earn interest at a variable rate rather than at 4 percent.

Currently, all Indian trust funds over \$500 that are held by the U.S. Treasury bear simple interest at a rate of 4 percent per annum. Interest rates for many other trust and escrow accounts held by the United States, however, are adjusted semiannually to reflect changing interest rates. The average uninvested trust funds are about \$8 million. At 4 percent these funds will earn \$320,000. Currently the short term interest rate is about 9½ percent. The earnings at 9½ percent would be \$760,000. Thus, the increased earnings to the Indian trust funds would be \$440,000 (\$760,000 at 9½ percent minus \$320,000 at 4 percent).

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This concludes my prepared statement. I would be pleased to respond to any questions you may have.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee votes that existing law is changed by amending to 25 U.S.C. 161a provide that Indian tribal funds held in trust by the United States shall earn interest at a variable rate rather than at 4 percent.

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